

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CH2383
ELIZABETH MCMORRIS)	HUD.: 05-09-0566-8
)	ALS NO.: 09-0524
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Greg Simoncini, presiding upon Elizabeth McMorris's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CH2383; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On January 28, 2009, the Petitioner filed an unperfected charge of discrimination with the Respondent, which was perfected on March 9, 2009. The Petitioner alleged Denise Clark-Downing, Larry Downing², Jack Clark's Family, Inc., and Anthony Williams, subjected her to unequal terms and conditions of tenancy by ignoring her requests for repairs to her rental unit because of her race, Black (Count A), her sex, female (Count B), and her mental disability, depression (Count C); and that they also denied her requests for a temporary transfer to another rental unit because of her race, (Count D), sex, (Count E), and mental disability, (Counts F); and finally that they retaliated against her for having opposed unlawful discrimination (Count G). The Petitioner alleged this conduct violated Sections 3-102(B) and 6-101(A) of the Illinois Human Rights Act ("Act").
2. On August 18, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On September 21, 2009, the Petitioner timely filed her Request.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

² Larry Downing died on July 31, 2008.

3. Denise Clark-Downing, Larry Downing, and Jack Clark's Family, Inc., are the record owners of a nine-unit residential property in Chicago, Illinois (the "Premises"). Clark-Downing, Downing, and Jack Clark's Family, Inc., will be collectively referred to as "the Owners." Anthony Williams is the managing agent for the Premises, and he will be referred to as "the Agent."
4. The Owners primarily used the Premises to provide a sober living environment for clients in its substance abuse recovery program. These clients paid a "lodger fee" to the Owners in exchange for housing at the Premises.
5. The Petitioner leased a unit in the Premises. The Petitioner was not one of the Owners' clients. Rather, the Petitioner participated in the Chicago Housing Authority's ("CHAC") Section 8 housing voucher program.
6. One other tenant resided on the Premises who was not a client of the Owners; that tenant will be herein identified as "M.B." M.B. was also a Black female, and she was also a participant in CHAC's Section 8 housing voucher program. M.B. was not mentally or physically disabled.
7. Section 8 participants were permitted to rent apartments for less than the market rental rate. The market rental rate for the Petitioner's unit was \$ 785.00 per month. As a Section 8 participant, the Petitioner was only required to pay rent in the amount of \$ 125.00 per month.
8. Section 8 participants were required to comply with Housing Quality Standards ("HQS") pursuant to HUD regulations. CHAC conducted annual inspections of the Section 8 participant's rental unit in order to ensure compliance with the HQS.
9. During the July 21, 2009 investigation, M.B. stated that CHAC had recently inspected her unit and that her unit had passed inspection and was in compliance with the HQS. M.B. also stated the Owners and the Agent were responsive when she requested repairs to her unit.
10. The Agent acknowledged that 90% of the Owners' clients were ex-offenders and that the clients performed maintenance and repair work at the Premises, including work inside of individual units.
11. The Owners also employed a regular maintenance worker, R. Thorn. Thorn stated that the Owners' clients assisted him in performing repair and maintenance work of rental units. Thorn stated that when he and the clients attempted to make repairs to the Petitioner's unit, the Petitioner would not allow them into her unit.
12. The Petitioner was not comfortable allowing ex-offenders into her unit, and admitted that she had not permitted the Owners' clients into her unit to perform repair work.
13. The Petitioner states that in November 2008, she asked the Owners and Agent to allow her to move to a vacant apartment on the Premises while the needed repairs in her unit were completed. However, all units were occupied and there were no vacancies in the Premises in November 2008.
14. Following an inspection on or about November 26, 2008, CHAC determined the Petitioner's unit had failed to meet HQS, and that her unit required emergency repairs.

15. On January 14, 2009, CHAC performed a re-inspection of the Petitioner's unit and determined the Petitioner's unit still failed to meet HQS.
16. Because the Petitioner refused to allow the emergency repairs to her unit, in January 2009 CHAC terminated the Petitioner's participation in the Section 8 program.
17. Once the Petitioner's Section 8 participation had been terminated the Owners placed the Petitioner on a month-to-month tenancy and required the Petitioner to pay market rate rent in the amount of \$ 785.00 per month.
18. The Petitioner could not afford the market rate rent and continued to pay the Owners \$ 125.00.
19. On February 26, 2009, the Owners issued the Petitioner a Notice of Termination of tenancy. The Owners stated they issued the Notice of Termination because the Petitioner had not paid her full rent, and the Petitioner would not cooperate with the Owners in their efforts to repair her unit. The Owners and Agent stated they had no knowledge of the Petitioner's mental disability.
20. In her charge and in her Request, the Petitioner contends that beginning in November 2008, the Owners and Agent have engaged in race, sex, and disability discrimination against her by refusing to make repairs to her unit, and by refusing her request for a temporary transfer to a different unit in the Premises. The Petitioner contends she was issued the Notice of Termination in February 2009, in retaliation for having filed the instant charge of discrimination in January 2009. Finally, the Petitioner believes that male, non-Black, and non-disabled tenants were given preferential treatment by the Owners and the Agent.

CONCLUSION

The Commission's review of the investigation file leads it to conclude the Respondent properly dismissed the Petitioner's charge for Lack of Substantial Evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D).

As to Counts A- C, there is no evidence in the file to substantiate the Petitioner's claims that the Owners and Agent failed to repair her unit because of her race, sex, and mental disability. Rather, the Petitioner admits she refused to allow the Owners' maintenance workers into her unit because some of these maintenance workers were ex-offenders. Further, there is no evidence Black female tenants were discriminated against. To the contrary, M.B., herself a Black female, stated that the Owners and Agent repaired her rental unit in a timely manner, without incident.

There is also no substantial evidence to support the Petitioner's claims in Counts D-F, wherein the Petitioner alleges she was not permitted to temporarily transfer to a vacant unit in November 2008 because of her race, sex, and mental disability. The Owners and Agent have put forth a nondiscriminatory reason for refusing the Petitioner's transfer request in November 2008, wherein they explained there were no vacant units available in November 2008. There is no substantial evidence in the file this nondiscriminatory reason was a pretext for discrimination. Further, although the Petitioner alleged a continuing violation as to Counts D-F, there is no evidence in the file the Petitioner asked to be transferred to a different unit in any of the months following November 2008.

Finally, as to Count G, the Owners and the Agent have articulated nondiscriminatory reasons for terminating the Petitioner's lease, because the Petitioner failed to pay rent and refused to permit the repair of her unit. The Petitioner admits she was unable pay full market rate rent once her Section 8 assistance had been terminated. The Petitioner admits she continued to pay the Owners only \$ 125.00 per month once her Section 8 assistance had been terminated instead of the full monthly rent of \$785.00. Further, the Petitioner admits she refused to allow the Owners' maintenance workers into her unit to make repairs. Given these admissions, the Commission finds no substantial evidence of retaliation.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Denise Clark-Downing, Larry Downing, Jack Clark's Family, Inc., and Anthony Williams, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 24th day of March 2010.

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini